

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

In Re: Ethicon Inc., Pelvic Repair System Products Liability Litigation
MDL No. 2327

Civil Action No. 2:14-21966

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for their Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2327 by reference.

Plaintiff(s) further show the court as follows:

1. Female Plaintiff

Cheryl Berden

2. Plaintiff's Spouse (if applicable)

Mark Berden

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

N/A

4. State of Residence

Michigan

5. District Court and Division in which venue would be proper absent direct filing.

Eastern District of Michigan, Bay View Division

6. Defendants (Check Defendants against whom Complaint is made):



A. Ethicon, Inc.



B. Johnson & Johnson

- ☐ C. American Medical Systems, Inc. ("AMS")
- ☐ D. Boston Scientific Corporation
- ☐ E. C. R. Bard, Inc. ("Bard")
- ☐ F. Sofradim Production SAS ("Sofradim")
- ☐ G. Tissue Science Laboratories Limited ("TSL")
- ☐ H. Mentor Worldwide LLC
- ☐ I. Coloplast Corp.
- ☐ J. Cook Incorporated
- ☐ K. Cook Biotech, Inc.
- ☐ L. Cook Medical, Inc.
- ☐ M. Desarrollo e Investigación Médica Aragonesa, S.L. ("DIMA")
- ☐ N. Neomedic International, S.L.
- ☐ O. Neomedic Inc.
- ☐ P. Specialties Remeex International, S.L.

7. Basis of Jurisdiction

- ☒ Diversity of Citizenship
- ☐ Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Paragraphs 9, 10, 11

B. Other allegations of jurisdiction and venue:

28 U.S.C. Sec. 1407, the Judicial Panel on Multi-District Litigation created MDL 2327

to be presided over by the Hon. Joseph Goodwin of the Southern District of West

Virginia. This matter falls properly under the jurisdiction of MDL 2327.

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ Prolift
 - ☐ Prolift +M
 - ☐ Gynemesh/Gynemesh PS
 - ☐ Prosima
 - ☐ TVT
 - ☐ TVT-Obturator (TVT-O)
 - ☐ TVT-SECUR (TVT-S)
 - ☐ TVT-Exact
 - ☐ TVT-Abbrevio
 - ☒ Other
- Gynecare Mersilene Mesh

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- ☐ Prolift
- ☐ Prolift +M
- ☐ Gynemesh/Gynemesh PS
- ☐ Prosima
- ☐ TVT

☐ TVT-Obturator (TVT-O)

☐ TVT-SECUR (TVT-S)

☐ TVT-Exact

☐ TVT-Abbrevio

☒ Other

Gynecare Mersilene Mesh

10. Date of Implantation as to Each Product:

July 11, 2011

11. Hospital(s) where Plaintiff was implanted (including City and State):

Cheboygan Memorial Hospital

Cheboygan, MI

12. Implanting Surgeon(s):

Dr. Marvin Coy, MD

13. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I – Negligence

☐ Count II – Strict Liability – Manufacturing Defect

☐ Count III – Strict Liability – Failure to Warn

☐ Count IV – Strict Liability – Defective Product

- ☐ Count V – Strict Liability – Design Defect
- ☐ Count VI – Common Law Fraud
- ☐ Count VII – Fraudulent Concealment
- ☐ Count VIII – Constructive Fraud
- ☐ Count IX – Negligent Misrepresentation
- ☐ Count X – Negligent Infliction of Emotional Distress
- ☒ Count XI – Breach of Express Warranty
- ☒ Count XII – Breach of Implied Warranty
- ☐ Count XIII – Violation of Consumer Protection Laws
- ☐ Count XIV – Gross Negligence
- ☒ Count XV – Unjust Enrichment
- ☒ Count XVI – Loss of Consortium
- ☐ Count XVII – Punitive Damages
- ☐ Count XVIII – Discovery Rule and Tolling
- ☐ Other Count(s) (Please state factual and legal basis for other claims below):

s/ William J. Doyle II

Attorney(s) for Plaintiff

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